HE UNITED STATES PATENT AND TRADEMARK OFFICE

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IN RE APPLICATION

Serial Number:

10/017,413

Group Art Unit:

2633

Title:

METHODS FOR EQUALIZATION OF A DWDM

SYSTEM

Filing Date:

December 18, 2001 Paul Marsh et al.

Inventors:

71493-973

Agent's Ref:

June 18, 2002

U.S. Commissioner of Patents and Trademarks U.S. Patent and Trademark Office

Washington, D.C. U.S.A 20231

> REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(a) to allow a first inventor to make an application on behalf of both himself and an omitted inventor because the omitted inventor refuses to join in the above identified application

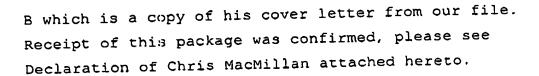
Sir:

- In accordance with the provisions of 37 CFR. 1.47(a), 1. the Applicant petitions the Commissioner to allow inventors (Paul Marsh and Gerard Gobeil) to make this application on behalf of themselves and an omitted inventor (Jeffrey Emery) because the omitted inventor has been uncooperative in signing the oath/declaration.
 - A partially executed "Declaration for Patent 2. Application and Power of Attorney" in connection with

the above identified application was filed with the application. The Declaration and an Assignment were signed by Mr. Faul Marsh and Mr. Gerard Gobeil. Mr. Emery's signature is missing from the Declaration and from the Assignment because he has been uncooperative in signing and returning the documents.

Proof of the Pertinent Facts

- 3. Jeffrey K. Emery signed and submitted an agreement relating to intellectual property and confidentiality on June 12th, 1990 at which time he was an employee of Nortel Networks Limited. As an employee, he was under an obligation to assign to Nortel Networks Limited all rights in any invention made during the course of his employment. A copy of this document is attached as Exhibit "A".
- 4. Smart & Biggar, the firm with which I am associated was appointed as Agent to represent the Applicants in the preparation of a United States Patent Application entitled METHODS FOR EQUALIZATION OF A DWDM SYSTEM, which was subsequently filed December 18, 2001 and given Serial Number 10/017,413 ("the Application"), and which claimed priority from provisional application 60/258,356 with partially executed documents.
 - 5. On February 9, 2001, William Petrie formerly in the employ of smart & Biggar sent a first set of documents to the inventor including the specification, declaration and drawings. Please see attached Exhibit



- 6. Christopher MacMillan, Ottawa Office Manager of Smart & Biggar, has made attempts to have Mr. Emery execute the documents as attested in his declaration attached hereto.
- 7. Angela Armstrong-Baker, a Patents Coordinator at Smart & Biggar has made attempts to have Mr. Emery execute the documents as outlined in her declaration attached hereto.
- 8. I sent a final letter to the inventor June 3, 2002 by courier indicating if the forms were not returned to us by June 14, 2002, this would constitute refusal by conduct. See my declaration attached hereto.

The last known address of the omitted inventor

9. The last known address of the omitted inventor, Jeff Emery, as of June 3, 2002 is:

51 Merner Avenue, Nepean, Ontario. Canada K2J 3Z3

Relief Sought

10. Consequently, the Applicant petitions the Commissioner to allow inventors (Paul Marsh and Gerard Gobeil) to make this Application on behalf of themselves and the

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omitted inventor (Jeff Emery). Such Action is necessary to preserve the rights of Nortel Networks Limited as failure to proceed could result in delay of issuance of the patent.

Respectfully submitted,

Reg. No. 40,476 Agent for the Applicant

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RAB/wfs